

# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) Nos.265 & 266 of 2006

Decided on: May 11, 2006.

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1. Cr.M.P.(M) No.265 of 2006:

Smt.Jagtar Kaur                      versus                      State of H.P.

2. Cr.M.P.(M) No.266 of 2006:

Smt.Kuldip Kaur                      versus                      State of H.P.

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**Coram**

The Hon'ble Mr. Justice Deepak Gupta, Judge.

*Whether approved for reporting?*<sup>1</sup>

For the Petitioners:              Mr.Sanjeev Kuthiala, Advocate.

For the respondent:              Mr.Ashutosh Burathoki, Addl.A.G.

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Deepak Gupta, Judge (Oral)

This order shall dispose of two bail applications being Cr.M.P.(M) Nos.265 and 266 of 2006 filed by Jagtar Kaur and Kuldip Kaur for grant of bail. The present petitioners, along with Kesar Singh, Balvinder Singh, Amrik Singh and Kamaljit Singh, are accused in a case registered against them vide F.I.R. No.6 of 2006 dated 4.1.2006 at Police Station, Amb, District Una under Sections 147, 148, 149, 323, 324, 325, 341, 307, 302 IPC.

2. According to the prosecution case, Kesar Singh used to live with his father Shrawan Singh and brothers. On 4.1.2006 Kesar Singh, his father, brother and sister-in-law were at home. At about 3.30 P.M. they all had tea. Thereafter, the deceased went towards village Bhera to get a hair cut. At about 4.30 P.M. – 4.45 P.M. the father of Shrawan Singh heard shouts from the direction of the house of Jagtar Kaur. People were

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*Whether the reporters of the local papers maybe allowed to see the judgment?*

shouting that Kesar Singh has been killed. The brother, sister-in-law and the father went towards the spot. Accused Jagtar Kaur, her brother Kesar Singh, her brother-in-law Balvinder Singh, her nephews Amrik Singh and Kamaljit Singh and Kuldip Kaur, wife of Kamaljit were beating up the deceased Kesar Singh. Jagtar Kaur was armed with a ***Thapi*** (*wooden instrument used for washing clothes*). Amrik Singh was armed with a sickle and the other accused were armed with **Lathis**. All the accused were beating up the deceased mercilessly. When the deceased's brother, sister-in-law and father reached the spot they were also beaten up. A number of people of the village collected at the spot.

3. Deceased Kesar Singh, who had suffered serious injuries, unfortunately died on 7.1.2006. As per the post mortem report, the deceased had as many as 23 ante mortem injuries. All the injuries except one injury at Sr.No.9 of the post mortem report was caused blunt object and injury No.9 was caused by a sharp edged cutting weapon. The cause of death is damage consequent to blunt object impact to the head.

4. These two bail applications have been filed by Jagtar Kaur and Kuldip Kaur. In the application filed by Jagtar Kaur, she states that she is innocent and has wrongly been implicated in the case. Further, she submits that she has three young children whom she has to look after. Jagtar Kaur was earlier married to one Dalmain Singh who died. After being widowed she married one Gurmail Singh, who also left her. Therefore, according to her, she is the only bread winner in the family. She further submits that she is living in the land and house of her late husband Dalmain Singh. Similarly, Kuldip Kaur states that she and her husband Kamaljit Singh are both innocent and since both are behind bars, there is

none to look after her two minor children who are studying in Class-IV and Class-II respectively at Bhera.

5. Mr.Sanjeev Kuthiala, learned counsel appearing for the petitioners, has contended that the petitioners being ladies have to look after the minor children should be released on bail. He further submits that the petitioners are innocent and have wrongly been implicated.

6. On the other hand, Mr.Ashutosh Burathoki, learned Additional Advocate General, submits that the petitioners are guilty of a very heinous offence and submits that they should not be released on bail. Further, according to him, the petitioners, if released on bail, will tamper with the prosecution evidence and threaten the local villagers. He also submits that the release of any of the accused may send a wrong signal.

7. From the material on record, it cannot be said that the petitioners have been falsely implicated. They have been duly identified and the weapons which they were holding have been identified. As per the prosecution case, all the accused got together, formed an unlawful armed assembly and then beat up the unarmed Kesar Singh. Therefore, in my opinion, it cannot be said that there is nothing to link the accused with the commission of an offence punishable with death.

8. The next submission which has been raised is that the petitioners have minor children and that the husband of Kuldip Kaur is also behind the bars. As far as Jagtar Kaur is concerned, it is apparent from her application that she is residing at Bhera. Alongwith the application school certificates of the children have been produced to show the date of birth of these children. These certificates show that the children are studying in Punjab and not in village Bhera. According to the prosecution, the children of Jagtar Kaur are living with their maternal grand parents in a village near

Nangal. It appears that Jagtar Kaur has been living separately from her children since she re-married. Therefore, the case set up by her that she has to look after her children does not seem to be correct. Her application is accordingly rejected.

9. As far as Kuldip Kaur is concerned, it has come on record that her husband is also behind bars. She has not only her young children to look after but also her old in laws. Keeping in view the provisions of Section 437 of the Code of Criminal Procedure and the fact that the petitioner is a woman who has two minor children to look after, I feel that her application for grant of bail should be considered sympathetically. The petitioner is a permanent resident of the village and there is no chance of her absconding. No doubt, she is charged with a heinous offence but keeping in view the fact that all the young members of the family are behind the bars, I feel it would be appropriate if Kuldip Kaur is ordered to be released on bail on her furnishing personal bonds in the sum of Rs.25,000/- with two sureties in the like amount to the satisfaction of the trial Court. The bail is granted subject to the conditions that she shall continue to join investigation as and when required to do so and she shall not hamper the investigation or tamper with the prosecution evidence in any manner whatsoever.

10. In view of the above discussion, Cr.M.P.(M) No.265 of 2006 is dismissed and Cr.M.P.(M) No.266 of 2006 is allowed in the aforesaid terms. Copy ***dasti***.

**May 11, 2006.**  
(soni)

**( Deepak Gupta )**  
**Judge.**



